



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

March 10, 2015
1503-VS-02
Exhibit 1

Petition Number: 1503-VS-02

Subject Site Address: 16588 North Gray Road (the "Property")

Petitioner: James E. Campbell, II (the "Petitioner")

Property Owner: James E. Campbell (the "Property Owner")

Request: The petitioner is requesting two (2) Variances of Standard from the Unified Development Ordinance (the "UDO") for the property commonly known as 16588 North Gray Road, Westfield, Indiana 46062. The request is to: (i) allow more than one Principal Building used for residential purposes on one Lot (Article 6.4(B)); and (ii) reduce the Minimum Lot Area requirement in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(C)).

Current Zoning: AG-SF1 (Agriculture / Single-Family Rural) District

Current Land Use: Residential

Approximate Acreage: 3.0 acres

Exhibits:

1. Staff Report
2. Location Map
3. Existing Conditions Exhibit
4. Petitioner's Statement of Intent
5. Site Plan Exhibit

Staff Reviewer: Jesse M. Pohlman, Senior Planner

Petition History

This petition will receive a public hearing at the March 10, 2015, Board of Zoning Appeals meeting.

Analysis

Location: The subject property is 3.0 acres +/- in size and located on the west side of Gray Road, approximately 1,280 feet south of 169th Street (see [Exhibit 2](#)). The Property is zoned AG-SF1: Agriculture / Single-Family Rural District ("AG-SF1"). The Property currently contains a single family home, a detached garage and a barn (see [Exhibit 3](#)). The surrounding properties include the Brookside neighborhood to the west (SF2: Single-Family Low Density District) and rural/estate residential uses to the north and south (zoned AG-SF1: Agriculture-Single Family Rural). The properties to the east across Gray Road are within Noblesville's planning and zoning jurisdiction and include rural/estate residential uses (zoned SR: Low Density Single Family Suburban Residential).



Variance Request: As summarized in the Petitioner's Statement of Intent (see Exhibit 4), the Petitioner has filed this variance request to allow the construction of a second home on the property, as generally shown on the Site Plan Exhibit (see Exhibit 5).

Article 6.4(B) Building Standards; Single-family Residential Uses: The standard states "[i]n no case shall there be more than one (1) Principal Building¹ used for residential purposes, and its Accessory Buildings, located on one (1) Lot, except as otherwise permitted herein."

In reviewing the proposed request, the Department identified that the existing half right-of-way along the Property's Gray Road frontage was not consistent with the City's Thoroughfare Plan, as further described herein. As a result, the Department requested the Petitioner's consideration to dedicate additional right-of-way in accordance with the Thoroughfare Plan. Upon the dedication of additional right-of-way, the Property's lot size would become less than three (3) acres. As a result and in working with the Department, the Petitioner is also requesting a variance to reduce the Minimum Lot Area to two and one half (2.5) acres for the existing Property (current three acres minus the approximate half acre of additional right-of-way). The additional right-of-way is depicted on the Site Plan Exhibit.

Article 4.2(C) AG-SF1; Minimum Lot Area: The standard for Minimum Lot Area in the AG-SF1 District is three (3) acres. The Property currently is three (3) acres in size; however, the property size would become less than three (3) acres upon the dedication of additional right-of-way.

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan identifies this Property within the "Suburban Residential"² land use classification. Among other uses, the Comprehensive Plan³ notes this area of the township includes a variety of housing types, including subdivisions, at a variety of densities, along with recreational uses.

The Comprehensive Plan notes the basic policy of this area is to preserve and protect the stability and integrity of the area as it fills to consist primarily of single-family residences. Other policies include: (i) ensure that infill development is compatible in mass, scale, density, materials, and architectural style to existing development; (ii) ensure that new development adjacent to existing suburban is properly buffered; and (iii) encourage only compatible infill development on vacant parcels in existing neighborhoods as a means of avoiding sprawl.

Thoroughfare Plan: A part of the Comprehensive Plan is the Thoroughfare Plan, which is designed to support and facilitate the City's efforts to provide for safe and effective transportation systems within the Township. As such, each major thoroughfare in the Township is classified, based on anticipated future growth. Gray Road is designated on the Thoroughfare Plan as a "Secondary Arterial", which is the second highest classification for a major thoroughfare. The Thoroughfare Plan provides that a Secondary Arterial could be up to a half

¹ The UDO (Chapter 12) defines "Principal Building" as "[a] building in which is conducted the main or primary use of the Lot on which said building is located. Where a substantial portion of an ancillary building is attached to the Principal Building in a substantial manner, as by a roof, then such ancillary building shall be counted as a part of the Principal Building and not as an Accessory Building."

² Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (pg. 24).

³ Westfield-Washington Township Comprehensive Plan, Suburban Residential (pg. 38).



right-of-way of sixty (60) feet in order to accommodate future improvements. For reference purposes, the "60' From Center Line of Road" is labeled on the Site Plan Exhibit.

Procedural

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variances of Development Standard. This petition is scheduled to receive its public hearing at the March 10, 2015, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO⁴ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁵ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variances of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

⁴ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

⁵ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



Department Comments

If the Board is inclined to approve the variances, then the Department recommends approving the petition with the following conditions and findings:

Recommended Conditions:

1. The Petitioner shall dedicate a sixty (60) foot half right-of-way (pursuant to the Westfield Thoroughfare Plan) along the Property's Gray Road frontage to the City of Westfield prior to the issuance of a Certificate of Occupancy for any new home on the Property.
2. The Property shall only be permitted one (1) driveway access onto Gray Road.
3. The "Existing 1-Story Frame House" and "Existing Frame Garage" (collectively, the "Existing House"), as identified on the Site Plan attached hereto, shall be demolished: (i) prior to the ownership transfer of the Property to an owner other than the existing Property Owner or Petitioner; (ii) within six (6) months of the existing Property Owner's vacancy of the Existing Home; or (iii) by March 10, 2025, whichever occurs first.

Recommended Findings for Approval:

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community because the AG-SF1 District permits the proposed residential use and the resulting improvements and parcel will otherwise comply with or exceed the applicable standards of the AG-SF1 District.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance(s) should not have a negative impact on surrounding properties because: (i) the use is permitted and the Property will be used for its current residential use; (ii) the parcel will otherwise comply with or exceed the applicable standards of the AG-SF1 District; and (iii) the approval of the variance(s) will allow for the continued use and improvement of the Property in a manner substantially consistent with the quality and character of the surrounding area and Comprehensive Plan.

3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

Finding: Strict adherence to the zoning ordinance would result in the inability to improve the Property, as proposed, in accordance with the Unified Development Ordinance. The use is permitted by the Unified Development Ordinance and the proposed improvements and parcel would otherwise be permitted and comply with the Unified Development Ordinance.



Recommended Findings for Denial:

If the Board is inclined to deny the variances, then the Department recommends approving the petition with the following conditions and findings:

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is likely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community because the AG-SF1 District permits the proposed residential use and the resulting improvements and parcel will otherwise comply with or exceed the applicable standards of the AG-SF1 District.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is likely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance(s) would result in an additional home on the property without demolishing the prior home first, thus allowing for the continued use of the Property in a manner inconsistent with the quality and character of the surrounding area and Comprehensive Plan.

3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

Finding: Strict adherence to the zoning ordinance would not result in the inability to use the property as the proposed residential use is otherwise occurring on the property would continue to be permitted by the Unified Development Ordinance.